

1 AN ACT
2 RELATING TO LOCAL GOVERNMENTS; ENACTING THE CONVENTION CENTER
3 FINANCING ACT; AUTHORIZING CERTAIN LOCAL GOVERNMENTAL
4 ENTITIES TO IMPOSE A DAILY FEE ON THE USE OF LODGING
5 FACILITIES; AUTHORIZING QUALIFIED MUNICIPALITIES TO ISSUE
6 BONDS; PROVIDING PENALTIES.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 Section 1. SHORT TITLE. --This act may be cited as the
10 "Convention Center Financing Act".

11 Section 2. DEFINITIONS. --As used in the Convention
12 Center Financing Act:

13 A. "additional municipality" means an incorporated
14 municipality, not a qualified municipality, that is
15 authorized to impose convention center fees pursuant to the
16 Convention Center Financing Act;

17 B. "convention center fee" means the fee imposed
18 by a local government entity pursuant the Convention Center
19 Financing Act on vendees for the use of lodging facilities;

20 C. "local governmental entity" means a qualified
21 municipality, a county or an additional municipality
22 authorized by the Convention Center Financing Act to impose
23 convention center fees;

24 D. "lodging facility" means a hotel, motel or
25 motor hotel, a bed and breakfast facility, an inn, a resort

1 or other facility offering rooms for payment of rent or other
2 consideration;

3 E. "qualified municipality" means an incorporated
4 municipality that has a population of more than seventy
5 thousand but less than one hundred thousand according to the
6 2000 federal decennial census located in a class A county;

7 F. "room" means a unit of a lodging facility, such
8 as a hotel room;

9 G. "vendee" means a person who rents or pays
10 consideration to a vendor for use of a room; and

11 H. "vendor" means a person or his agent who
12 furnishes rooms for occupancy for consideration.

13 Section 3. AUTHORIZED LOCAL GOVERNMENTAL ENTITIES. -- The
14 following local governmental entities are authorized to
15 impose convention center fees:

16 A. a qualified municipality if the governing body
17 of the qualified municipality has enacted an ordinance to
18 impose a convention center fee;

19 B. a county in which a qualified municipality is
20 located, provided that:

21 (1) a qualified municipality within the
22 county has enacted an ordinance to impose a convention center
23 fee;

24 (2) the board of county commissioners of the
25 county has enacted an ordinance to impose a convention center

1 fee;

2 (3) the qualified municipality and the
3 county have entered into a joint powers agreement pursuant to
4 the Joint Powers Agreements Act to collect the revenue from
5 the convention center fee and to expend the revenue as
6 required in the Convention Center Financing Act; and

7 (4) the fee shall only apply to lodging
8 facilities located within twenty miles of the corporate
9 limits of the qualified municipality; and

10 C. an additional municipality located within
11 twenty miles of the corporate limits of a qualified
12 municipality in the same county in which that qualified
13 municipality is located, provided that:

14 (1) the qualified municipality has enacted
15 an ordinance imposing a convention center fee;

16 (2) the additional municipality has enacted
17 an ordinance imposing a convention center fee; and

18 (3) the qualified municipality and the
19 additional municipality have entered into a joint powers
20 agreement pursuant to the Joint Powers Agreements Act to
21 collect the revenue from the convention center fee and to
22 expend the revenue as required by the Convention Center
23 Financing Act.

24 Section 4. IMPOSITION OF CONVENTION CENTER FEE--USE OF
25 PROCEEDS. --

1 A. A local governmental entity may impose by
2 ordinance a fee on the use of a room within a lodging
3 facility within the local governmental entity. The fee may
4 be referred to as the "convention center fee". The amount of
5 the convention center fee shall not exceed two dollars fifty
6 cents (\$2.50) per room for each day the room is occupied by a
7 vendee.

8 B. A convention center fee imposed pursuant to
9 this section shall be reviewed by the governing body of the
10 local governmental entity annually. The local governmental
11 entity shall adjust the amount of the convention center fee
12 by ordinance to result in an amount of revenue equivalent to
13 the following percentage of the actual operating and
14 maintenance costs for the preceding fiscal year of the
15 convention center to which the revenue from the fee is
16 dedicated pursuant to Subsection E of this section:

17 (1) through fiscal year 2025, one hundred
18 twenty percent;

19 (2) for fiscal year 2026, one hundred
20 percent; and

21 (3) for fiscal year 2027 and subsequent
22 fiscal years, a percentage that is two percent less than the
23 prior fiscal year.

24 C. If convention center fees imposed are subject
25 to the provisions of a joint powers agreement between two

1 local governmental entities, the local governmental entities
2 that are parties to the joint powers agreement shall jointly
3 determine changes in the rate of convention center fees to be
4 imposed.

5 D. A qualified municipality shall not decrease the
6 convention center fee while revenue bonds to which the
7 revenue of the convention center fees is pledged remain
8 outstanding.

9 E. A local governmental entity shall dedicate the
10 revenue from the convention center fee as provided in this
11 subsection at the time that the ordinance imposing the fee is
12 enacted. A local governmental entity that is a party to a
13 joint powers agreement regarding the imposition of a
14 convention center fee shall enact an ordinance that includes
15 the provisions stated in the joint powers agreement and limit
16 the use of the revenue to the following:

17 (1) costs of acquisition of land for and the
18 design, construction, equipping, furnishing, landscaping,
19 operation and maintenance of a convention center located
20 within the qualified municipality;

21 (2) payments of principal, interest or prior
22 redemption premiums due in connection with and any other
23 charges pertaining to revenue bonds authorized by the
24 Convention Center Financing Act; and

25 (3) costs of collecting and otherwise

1 administering the convention center fee; provided that
2 administration costs shall not be paid until all required
3 payments on the revenue bonds issued pursuant to the
4 Convention Center Financing Act are made and that no more
5 than five percent of the revenue collected in any fiscal year
6 shall be used to pay administration costs.

7 Section 5. EXEMPTIONS. --The convention center fee shall
8 not apply:

9 A. if a vendee:

10 (1) has been a permanent resident of the
11 lodging facility for a period of at least thirty consecutive
12 days; or

13 (2) enters into or has entered into a
14 written agreement for a room at a lodging facility for a
15 period of at least thirty consecutive days;

16 B. if the consideration paid by a vendee is less
17 than two dollars (\$2.00) a day;

18 C. to rooms at institutions of the federal
19 government, the state or any political subdivision thereof;

20 D. to rooms at religious, charitable, educational
21 or philanthropic institutions, including rooms at summer
22 camps operated by such institutions;

23 E. to clinics, hospitals or other medical
24 facilities;

25 F. to privately owned and operated convalescent

1 homes or homes for the aged, infirm, indigent or chronically
2 ill; or

3 G. if the vendor does not offer at least three
4 rooms at its lodging facility. The convention center fee
5 shall be imposed on the lodging facilities of a vendor that
6 owns three or more lodging facilities within local
7 governmental entities that have imposed a convention center
8 fee, regardless of the number of rooms available for
9 occupancy.

10 Section 6. COLLECTION OF CONVENTION CENTER FEE. --

11 A. A vendor providing rooms in a local
12 governmental entity that has imposed a convention center fee
13 shall collect the proceeds on behalf of the local
14 governmental entity and shall act as a trustee for the fees
15 collected.

16 B. The convention center fee shall be collected
17 from vendees in accordance with the ordinance imposing the
18 convention center fee and shall be accounted for separately
19 from the rent fixed by the vendor for rooms.

20 Section 7. AUDIT OF VENDORS. --A local governmental
21 entity assessing a convention center fee shall include
22 verification of the collection of the correct convention
23 center fee in any audit of a vendor conducted pursuant to
24 Section 3-38-17.1 NMSA 1978.

25 Section 8. FINANCIAL REPORTING. --The chief executive

1 officer of a local governmental entity assessing a convention
2 center fee shall report to the local government division of
3 the department of finance and administration on a quarterly
4 basis any expenditure of convention center fee funds.

5 Section 9. ENFORCEMENT. --

6 A. An action to enforce the Convention Center
7 Financing Act may be brought by:

8 (1) the attorney general or the district
9 attorney in the county of jurisdiction; or

10 (2) a vendor who is collecting the proceeds
11 of a convention center fee in the county of jurisdiction.

12 B. A district court may issue a writ of mandamus
13 or order an injunction or other appropriate remedy to enforce
14 the provisions of the Convention Center Financing Act.

15 C. The court shall award costs and reasonable
16 attorney fees to the prevailing party in a court action to
17 enforce the provisions of the Convention Center Financing
18 Act.

19 Section 10. COLLECTION OF DELINQUENCIES. --

20 A. A local governmental entity shall by ordinance
21 provide that a vendor is liable for the payment of the
22 proceeds of convention center fees that the vendor failed to
23 remit to the local governmental entity. Failure of the
24 vendor to collect the fee is not cause for the local
25 governmental entity to forgive convention center fees due and

1 owed by the vendor. The ordinance shall provide for a civil
2 penalty for each occurrence of failure to remit convention
3 center fees in an amount equal to the greater of ten percent
4 of the amount that was not duly remitted to the local
5 governmental entity or one hundred dollars (\$100).

6 B. The local governmental entity may bring an
7 action in the district court of the judicial district in
8 which the local governmental entity is located for collection
9 of amounts due, including without limitation, penalties on
10 the amounts due on the unpaid principal at a rate not
11 exceeding one percent per month, the costs of collection and
12 reasonable attorney fees incurred in connection with the
13 court action to collect the unpaid convention center fees.

14 Section 11. LIEN FOR CONVENTION CENTER FEE- -PAYMENT- -
15 CERTIFICATE OF LIEN. - -

16 A. The convention center fee assessed by a local
17 governmental entity constitutes a lien in favor of that local
18 governmental entity upon the personal and real property of
19 the vendor providing lodging facilities in that local
20 governmental entity. The lien may be enforced as provided in
21 Sections 3-36-1 through 3-36-7 NMSA 1978. Priority of the
22 lien shall be determined from the date of filing.

23 B. Under process or order of court, a person shall
24 not sell the property of a vendor without first ascertaining
25 from the clerk or treasurer of the local governmental entity

1 in which the vendor is located the amount of any convention
2 center fees due. Convention center fees due the local
3 governmental entity shall be paid from the proceeds of the
4 sale before payment is made to the judgment creditor or any
5 other person with a claim on the sale proceeds.

6 C. The clerk or treasurer of the local
7 governmental entity shall furnish a certificate of lien to a
8 person applying for a certificate showing the amount of all
9 liens in the records of the local governmental entity against
10 any vendor pursuant to the Convention Center Financing Act.

11 Section 12. ORDINANCE REQUIREMENTS. -- The ordinance
12 imposing a convention center fee or any ordinance amending
13 the imposition of a convention center fee shall:

14 A. state:

15 (1) the rate of the convention center fee to
16 be imposed;

17 (2) the times, place and method for the
18 payment of the convention center fee proceeds to the local
19 governmental entity;

20 (3) the accounts and other records to be
21 maintained in connection with the convention center fee;

22 (4) a procedure for making refunds and
23 resolving disputes relating to the convention center fee;

24 (5) the procedure for preservation and
25 destruction of records and for their inspection and

1 investigation;

2 (6) vendor audit requirements;

3 (7) applicable civil and criminal penalties;

4 and

5 (8) a procedure of liens, distraint and
6 sales to satisfy those liens; and

7 B. provide other rights, privileges, powers,
8 immunities and other details relating to the collection of
9 the convention center fee and the remittance of the proceeds
10 thereof to the local governmental entity.

11 Section 13. REVENUE BONDS. --

12 A. Revenue bonds may be issued at any time by a
13 qualified municipality that has imposed a convention center
14 fee to defray wholly or in part the costs authorized in
15 Paragraph (1) of Subsection E of Section 4 of the Convention
16 Center Financing Act. The revenue bonds may be payable from
17 and payment may be secured by a pledge of and lien on the
18 revenue derived from:

19 (1) the proceeds of the convention center
20 fee of the qualified municipality and the proceeds of the
21 convention center fee of a local governmental entity that has
22 entered into a joint powers agreement with the qualified
23 municipality to impose a convention center fee, the proceeds
24 of which shall be dedicated to the payment of revenue bonds
25 for a convention center in the qualified municipality;

1 (2) a convention center to which the bonds
2 pertain, after provision is made for the payment of the
3 operation and maintenance expenses of the convention center;

4 (3) that portion of the proceeds of the
5 occupancy tax of the qualified municipality available for
6 payment of revenue bonds pursuant to Paragraph (1) of
7 Subsection B of Section 3-38-23 NMSA 1978;

8 (4) any other legal available revenues of
9 the qualified municipality; or

10 (5) a combination of revenues from the
11 sources designated in Paragraphs (1) through (4) of this
12 subsection.

13 B. The bonds shall bear interest at a rate or
14 rates as authorized in the Public Securities Act, and the
15 first interest payment may be for any period authorized in
16 the Public Securities Act.

17 C. Except as otherwise provided in the Convention
18 Center Financing Act, revenue bonds authorized in that act
19 shall be issued in accordance with the provisions of
20 Sections 3-31-2 through 3-31-6 NMSA 1978.

21 Section 14. REFUNDING BONDS. --

22 A. A qualified municipality having issued revenue
23 bonds as authorized in the Convention Center Financing Act
24 may issue refunding revenue bonds payable from pledged
25 revenues authorized for the payment of revenue bonds at the

1 time of the refunding or at the time of the issuance of the
2 bonds being refunded as the governing body of the qualified
3 municipality may determine, notwithstanding that the revenue
4 sources or the pledge of such revenues or both are thereby
5 modified.

6 B. Refunding bonds may be issued for the purpose
7 of refinancing, paying and discharging all or a part of
8 outstanding bonds of any one or more outstanding bond issues:

9 (1) for the acceleration, deceleration or
10 other modification of the payment of the obligations,
11 including any capitalization of any interest in arrears or
12 about to become due for any period not exceeding one year
13 from the date of the refunding bonds;

14 (2) for the purpose of reducing interest
15 costs or effecting other economies;

16 (3) for the purpose of modifying or
17 eliminating restrictive contractual limitations pertaining to
18 the issuance of additional bonds or otherwise concerning the
19 outstanding bonds; or

20 (4) for any combination of the purposes
21 specified in Paragraphs (1) through (3) of this subsection.

22 C. The interest on a bond refunded shall not be
23 increased to a rate in excess of the rate authorized in the
24 Public Securities Act and shall be paid as authorized in that
25 act.

1 D. Refunding bonds for any other purpose permitted
2 by the Convention Center Financing Act may be issued
3 separately or issued in combination in one series or more.

4 E. Except as otherwise provided in the Convention
5 Center Financing Act, refunding bonds authorized in that act
6 shall be issued in accordance with the provisions of
7 Sections 3-31-10 and 3-31-11 NMSA 1978.

8 Section 15. PENALTIES. -- A local governmental entity
9 shall by ordinance provide for penalties by creating a
10 misdemeanor and imposing a fine of not more than five hundred
11 dollars (\$500) or imprisonment for not more than ninety days
12 or both for a violation by any person of the provisions of
13 the convention center fee ordinance for a failure to pay
14 the fee or to remit the proceeds thereof to the local
15 governmental entity. _____

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